

Court-Connected Juvenile Victim-Offender Mediation: An Appealing Alternative for Ohio's Juvenile Delinquents

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I. INTRODUCTION

Juvenile delinquency has become one of the nation's most threatening social problems,¹ and the juvenile justice system has failed to remedy the increasing rate of recidivism among juvenile offenders.² These trends are by no means foreign to the State of Ohio. At present, the juvenile justice system in Ohio³ is struggling with over-crowded dockets, untimely dispositions and increasing rates of juvenile delinquency and recidivism.⁴ In

¹ See William R. Nugent & Jeffrey B. Paddock, *The Effect of Victim-Offender Mediation on Severity of Reoffense*, 12 *MEDIATION Q.* 353, 354 (1995) (noting that juvenile delinquency has proved to be an indicator of adult criminal behavior, personality disorders, alcoholism, poor occupational performance and other like maladjustments). The most recent statistics indicate that during the year 1993, juvenile courts handled an estimated 1,489,700 cases, a 23% increase since 1989. Furthermore, the number of "person offenses," as opposed to property offenses, rose 52% over this three-year period. The Federal Bureau of Investigation Crime Index also indicates that juvenile courts handled 57% more Violent Crime Index offenses in 1993 than in 1989. See NATIONAL CENTER FOR JUVENILE JUSTICE, *JUVENILE COURT STATISTICS 1993: STATISTICS REPORT 5* (1995).

² See Nugent & Paddock, *supra* note 1, at 354-355; see also Marianne McConnell, *Mediation—An Alternative Approach for the New Jersey Juvenile Justice System?*, 20 *SETON HALL LEGIS. J.* 433, 434 (1996) (commenting that "public frustration continues to increase because of the state's inability to resolve the crisis of rising juvenile crime"); Monrad G. Paulsen, *Children's Court: Gateway or Last Result?*, in *THE PROBLEMS OF JUVENILE COURTS AND THE RIGHTS OF CHILDREN* 107, 108 (Monrad G. Paulsen ed., 1975) (arguing that the juvenile court system often perpetuates juvenile delinquency).

³ The purposes of the juvenile justice system in Ohio are to (1) protect society from the "consequences of criminal behavior," (2) provide for the "care, protection and mental and physical development of children" through "rehabilitation" and (3) remove "the taint of criminality from children committing delinquent acts." OHIO REV. CODE ANN. § 2151.01(A) & (B) (Anderson 1994); see also OHIO JUV. CT. R. 1(B).

⁴ During the November 1996 elections for juvenile judgeships, candidates throughout Ohio provided their constituents with this very vivid description of the state of the juvenile justice system. See, e.g., Tim Doulin, *New Domestic Relations Judge Will Help to Handle Busy Docket, Preisse Will Target Cause of Increase in Juvenile*

1996, the juvenile courts had a total delinquency caseload of approximately 122,717 delinquency cases, and approximately 1215 of those cases were pending beyond time guidelines.⁵ Furthermore, the projections for 1997 indicate that the total delinquency caseload may have increased and that Ohio's juvenile delinquents are committing more serious and complex crimes.⁶ These facts have led many to conclude that our present paradigm of juvenile justice is no longer acceptable and that a new approach toward crime and victimization must be adopted.⁷ As a consequence, Chief Justice Thomas J. Moyer of the Supreme Court of Ohio has declared, "The time to consider alternative means of dispute resolution is here."⁸

Crime, THE COLUMBUS DISPATCH, Oct. 13, 1996, at B2 (noting that the Franklin County Domestic Relations Court/Juvenile Branch was adding a new judge because of its over-crowded docket); Angela Townsend, *Miami Voters Ponder Issues: Candidates List Their Concerns*, DAYTON DAILY NEWS, Oct. 30, 1996, at B1 (documenting the candidates' concerns regarding the inefficiency of the juvenile court in providing prompt justice for juvenile offenders).

⁵ See THE SUPREME COURT OF OHIO, OHIO COURTS SUMMARY 1996, at 5H (1997). While the total delinquency caseload for 1996 represents a 2.9% decrease from 1995, the total delinquency caseload for Ohio's juvenile courts has increased markedly since 1992. In 1995, the juvenile courts had a total delinquency caseload of approximately 117,292 cases, an increase of 13.7% from 1994, and approximately 2829 of those cases were pending beyond time guidelines. See THE SUPREME COURT OF OHIO, OHIO COURTS SUMMARY 1995, at 5H (1996). In 1994, the juvenile courts had a total delinquency caseload of approximately 107,752 cases, an increase of 17.7% from 1993, and approximately 1478 of those cases were pending beyond time guidelines. See THE SUPREME COURT OF OHIO, OHIO COURTS SUMMARY 1994, at 5H (1995). In 1993, the juvenile courts had a total delinquency caseload of approximately 100,601 cases, an increase of 13.2% from 1992, and approximately 1235 of those cases were pending beyond time guidelines. See THE SUPREME COURT OF OHIO, OHIO COURTS SUMMARY 1993, at 5H (1994).

⁶ See Telephone Interview with Douglas R. Stephens, Court Statistics Officer for the Supreme Court of Ohio, in Columbus, Ohio (Apr. 14, 1998).

⁷ See MARK S. UMBREIT, VICTIM MEETS OFFENDER: THE IMPACT OF RESTORATIVE JUSTICE AND MEDIATION 2 (1994) (describing how the present system's inability to have a positive impact on offenders, their victims or the community at large has led to the search for a new framework of justice).

⁸ CHIEF JUSTICE THOMAS J. MOYER, ADDRESS TO THE JOINT CONVENTION OF THE 118TH GENERAL ASSEMBLY 1990, *quoted in* SUPREME COURT OF OHIO COMMITTEE ON DISPUTE RESOLUTION, PRELIMINARY REPORT OF THE COMMITTEE TO THE SUPREME COURT OF OHIO 1 (1991) [hereinafter PRELIMINARY REPORT]. Chief Justice Moyer's statement was not made specifically regarding juvenile offenders, but rather regarding

JUVENILE VICTIM-OFFENDER MEDIATION

In August 1989, the Supreme Court of Ohio created the Supreme Court of Ohio Committee on Dispute Resolution (Committee).⁹ The Committee was directed to investigate alternative methods that may be used to divert cases from the court dockets while ensuring a fair and equitable resolution for all parties involved.¹⁰ The Committee was also asked to assess the application of these methods to various types of disputes, including those involving juvenile offenders.¹¹ Since its initial assignment eight and one-half years ago, the Committee has become dedicated to providing educational and financial assistance to courts that are interested in incorporating mediation into their judicial processes.¹² As a result, several courts have either established or further developed juvenile victim-offender mediation programs.¹³ To capitalize on this success, the Committee is taking active measures to assist these courts in monitoring and evaluating their mediation programs.¹⁴ By incorporating the lessons of the past into future planning, development and implementation, the Committee and courts may ensure that the expansion of effective juvenile victim-offender mediation programs continues in Ohio.¹⁵

This Note presents the first study of juvenile victim-offender mediation programs in Ohio.¹⁶ Through an introduction to the victim-offender

the more general issues of over-crowded dockets, untimely adjudications and the community's loss of confidence in the American judicial system. *See id.*

⁹ *See* PRELIMINARY REPORT, *supra* note 8, at iii.

¹⁰ *See id.*

¹¹ *See id.* The Committee was also directed to explore how these methods may be used in civil, criminal and domestic relations cases. Accordingly, the Committee's four subcommittees examined common pleas courts, municipal courts, domestic relations courts and juvenile courts respectively. *See id.*

¹² *See infra* Part V (documenting the Project's work to date).

¹³ *See infra* Part V (describing several of the juvenile victim-offender mediation programs in Ohio).

¹⁴ *See* Interview with C. Eileen Pruett, Coordinator, Dispute Resolution Programs for the Supreme Court of Ohio, in Columbus, Ohio (Jan. 1997-Apr. 1998). Eileen Pruett's position was established pursuant to Recommendation One of the Committee. Recommendation One urged the Supreme Court of Ohio to establish a central office that could serve as a resource for all court-connected dispute resolution programs in the areas of planning, design, training, education, administration and evaluation. *See* PRELIMINARY REPORT, *supra* note 8, at 11.

¹⁵ *See id.*

¹⁶ Several authors have written similar articles discussing the development of juvenile victim-offender mediation programs in other states. *See, e.g.,* UMBREIT, *supra*

mediation process and a description of its expansion within the state, this Note provides both an informational and analytical framework for continued discussion and program development throughout the courts of Ohio. Part II discusses the restorative justice theory, which is the theoretical foundation for juvenile victim-offender mediation. Part III describes the contours of the mediation process. Part IV examines the substantive aspects of juvenile victim-offender mediation and discusses its voluntary nature, empowering and educating functions, informality, dependence on a qualified mediator and effectiveness. Part V describes several juvenile victim-offender mediation programs that have developed in Ohio, ranging from metropolitan to rural counties. Part VI concludes.

II. THE RESTORATIVE JUSTICE THEORY

A discussion of juvenile victim-offender mediation begins with a discussion of restorative justice theory.¹⁷ Restorative justice theory offers a

note 7, at 44-54 (describing in detail the juvenile victim-offender mediation programs in Albuquerque, New Mexico; Minneapolis, Minnesota; Oakland, California; and Austin, Texas); Diane R. Hegyi & Adam Glaser, *Victim-Offender Mediation*, 33 ARIZ. ATT'Y 29, 29 (1996) (describing the Victim-Offender Mediation Program administered by the Arizona Attorney General's Office); McConnell, *supra* note 2, at 444-463 (evaluating the New Jersey Code of Juvenile Justice and suggesting the use of mediation to obtain a higher degree of success in decreasing juvenile recidivism); Sheila D. Porter & David B. Elles, *Mediation Meets the Criminal Justice System*, 23 COLO. LAW. 2521, 2524 (1994) (documenting the success of the Colorado Bar Association's Alternative Dispute Resolution Committee in promoting the development of juvenile victim-offender mediation programs throughout the state); Melinda Smith, *Mediation for Children, Youth and Families: A Service Continuum*, 12 MEDIATION Q. 277, 278-283 (1995) (describing the continuum of mediation programs for children and families developed by the New Mexico Center for Dispute Resolution); Susan C. Taylor, *Victim-Offender Reconciliation Program—A New Paradigm Toward Justice*, 26 U. MEM. L. REV. 1187, 1189-1191 (1996) (describing the nonprofit mediation center in Tennessee that was inaugurated pursuant to legislation); Mark William Bakker, Note, *Repairing the Breach & Reconciling the Discordant: Mediation in the Criminal Justice System*, 72 N.C. L. REV. 1479, 1509-1514, 1520-1526 (1994) (commenting on the use of mediation in the criminal justice system and arguing for greater development of such programs in North Carolina); Fred Gay & Thomas J. Quinn, *Restorative Justice and Prosecution in the Twenty-First Century*, THE PROSECUTOR, Sept.-Oct. 1996, at 18-23 (describing the Youthful Offender Pre-Trial Intervention Program of Polk County, Iowa, which includes mediation).

¹⁷ See UMBREIT, *supra* note 7, at 2.

new perspective on crime and victimization, which is markedly unlike the theory underlying our current judicial system.¹⁸ At present, retributive justice theory underlies society's perspective on crime and victimization.¹⁹ This theory defines crime as an offense against the state.²⁰ Accordingly, the state has plenary responsibility for responding to unlawful conduct with punishment.²¹ The theory assumes that there is an adversarial relationship between the victim and the offender, which is illustrated by the nature of the criminal justice system.²² The victim is placed in a passive role, and his participation in the judicial process is largely limited to providing the material evidence needed for a conviction.²³ Finally, retributive justice theory defines offender accountability as the subsequent punishment, and through such punishment, the offender restores society for his crime.²⁴

The current paradigm of justice, as described by retributive justice theory, fails to address the needs and interests of both victims and offenders.²⁵ Accordingly, restorative justice theory is viewed as a promising alternative and is increasingly being embraced throughout the

¹⁸ See *id.*

¹⁹ See Mark S. Umbreit, *The Development and Impact of Victim-Offender Mediation in the United States*, 12 *MEDIATION Q.* 263, 274 (1995).

²⁰ See UMBREIT, *supra* note 7, at 2; Jennifer Gerarda Brown, *The Use of Mediation to Resolve Criminal Cases: A Procedural Critique*, 43 *EMORY L.J.* 1247, 1261 (1994).

²¹ See Brown, *supra* note 20, at 1261.

²² See Mark S. Umbreit, *Restorative Justice: Having Offenders Meet with Their Victims Offers Benefits for Both Parties*, *CORRECTIONS TODAY*, July 1991, at 164.

²³ See Umbreit, *supra* note 19, at 266. Despite the fact that the victim has typically suffered a personal loss, the present system affords no opportunity for the victim to express his emotions to the offender and thus develop a sense of closure surrounding the offense. See *VICTIM-OFFENDER MEDIATION* (The University of Toledo 1996).

²⁴ See HOWARD ZEHR, *CHANGING LENSES: A NEW FOCUS FOR CRIME AND JUSTICE* 192-193 (1990) (presenting a detailed table comparing the "old" and "new" paradigms of justice). Additionally, this punishment is defined in purely legal terms, rather than terms reflecting the moral, social, economic or political dimensions of the crime. See *id.* For example, in truancy cases, a school administration may automatically fail a student for an entire semester after a number of unexcused absences, and courts will generally respect this decision. The schools fail to analyze why the student may be missing classes and are thus unable to resolve the situation productively and increase attendance. See Interview with C. Eileen Pruett, *supra* note 14.

²⁵ See UMBREIT, *supra* note 7, at 2.

legal community.²⁶ This theory defines crime as the victimization of one person by another, as opposed to a violation of the state's interests.²⁷ The responsibility for addressing unlawful conduct does not lie primarily with the state, but rather with the victim, the offender and the community as a whole.²⁸ Both victims and offenders assume active, problem-solving roles and negotiate an agreement that is intended to restore the material and psychological losses of the victim while impressing upon the offender the "human impact" of his criminal conduct.²⁹ Finally, restorative justice theory defines offender accountability as accepting responsibility for one's actions and playing an active role in the restitution process.³⁰

In light of the fact that the retributive paradigm of justice has proved largely punitive³¹ and has failed to address the needs of victims and juvenile offenders, restorative justice theory is having a profound impact on

²⁶ See *id.*; see also Gay & Quinn, *supra* note 16, at 16 (describing the increasing acceptance of restorative justice theory as an alternative paradigm of justice for addressing public safety concerns while providing for the needs of the victim). See generally Roger J.R. Levesque, *Future Visions of Juvenile Justice: Lessons from International and Comparative Law*, 29 CREIGHTON L. REV. 1563, 1566-1584 (1996) (discussing how the international approach to juvenile justice has moved from a retributive model of justice toward a restorative model of justice).

²⁷ See Brown, *supra* note 20, at 1261.

²⁸ See *id.*

²⁹ See UMBREIT, *supra* note 7, at 2. Some offenders report that the greatest impetus to "change their ways" stemmed from learning how their conduct impacted an innocent person's life. For example, a juvenile offender who had vandalized a neighborhood by shooting into its homes realized the gravity of his conduct when he learned that one victimized family had recently experienced the death of a child. He commented, "Everything was already bad and then [we] came along and made things worse." VICTIM-OFFENDER MEDIATION, *supra* note 23.

³⁰ See ZEHR, *supra* note 24, at 192-193. The form of the restitution is intended to reflect the moral, social, economic and political dimensions of the offense and its subsequent repercussions. See *id.*

³¹ See *In re Gault*, 387 U.S. 1, 18 (1967) (stating that the absence of procedural rules and substantive standards in juvenile courts "has not always produced fair, efficient and effective procedures"); PHYLLIDA PARSLOE, *JUVENILE JUSTICE IN BRITAIN AND THE UNITED STATES* 24 (1978) ("Much that has been done in the name of welfare has been manipulative and punitive, as the history of [the juvenile justice system shows]."); Paulsen, *supra* note 2, at 108-109 (concluding that the juvenile justice system's informality is a "curtain behind which error, weariness, indifference, unseemly hate and prejudice" can roam free due to the abundance of discretionary power in juvenile judges).

social and legal policy.³² Some members of the community resist a paradigm shift, however, based on the belief that restorative justice is far too revolutionary when compared to the present retributive system.³³ There are two responses to this concern. First, we need radical change. The number of first-time juvenile offenders and the rate of recidivism are both increasing, and the present system fails to address the underlying issues behind this cycle of delinquency.³⁴ Second, restorative justice theory is not as radical as some believe. The norms and values promoted by the theory, such as accountability for one's actions and reconciliation, are already embedded in and highly valued by society.³⁵ In light of the theory's promise and potential, juvenile victim-offender mediation is becoming increasingly popular as a vehicle for implementing restorative justice principles and effectively addressing the many facets of juvenile delinquency.³⁶

III. THE PROCESS OF JUVENILE VICTIM-OFFENDER MEDIATION

Mediation is a "consensual process in which a neutral third party, without any power to impose a resolution, works with the disputing parties to help them reach a mutually acceptable resolution of some or all of the issues in dispute."³⁷ The parties to the process typically have an ongoing

³² See UMBREIT, *supra* note 7, at 2.

³³ See *id.*; Umbreit, *supra* note 19, at 275.

³⁴ Due to the formality and evidentiary limitations of the criminal justice system, a juvenile court is unable to take into account the social, psychological or cultural factors that are pertinent to the juvenile, but not logically relevant to the proceeding. See Diane E. Hoffman, *Mediating Life and Death Decisions*, 36 ARIZ. L. REV. 821, 855 (1994) (discussing the procedural criticisms of mediation).

³⁵ See Umbreit, *supra* note 19, at 275. Additionally, where victim-offender mediation programs have been instituted, they are increasingly being used for offenses involving violence. See Glenda L. Cottam, *Mediation and Young People: A Look at How Far We've Come*, 29 CREIGHTON L. REV. 1517, 1544-1545 (1996).

³⁶ See UMBREIT, *supra* note 7, at 5. For sources on the causes of juvenile delinquency, see CONGRESSIONAL RESEARCH REPORT, JUVENILE DELINQUENCY: ISSUES, CAUSES AND PREVENTION (Penny Hill Press 1996) (presenting a 29-page bibliography of scholarly journals and studies discussing juvenile delinquency).

³⁷ ROBERT A. BARUCH BUSH, *MEDIATION INVOLVING JUVENILES: ETHICAL DILEMMAS AND POLICY QUESTIONS* 4 (1991). The mediation process itself is notably informal. Each party has the opportunity to present her information and perspective regarding the dispute, and the mediator then actively assists the parties in reaching a

personal or situational relationship, which assists in creating the atmosphere of discourse and negotiation.³⁸ As an alternative to litigation, mediation not only enables the parties to resolve their disputes in a more timely fashion,³⁹ but also reduces judicial costs by decreasing the probability of future conflict that may require police or court involvement.⁴⁰

Since the early 1980s, mediation has increasingly been used to resolve interpersonal disputes involving juveniles,⁴¹ and the process of juvenile victim-offender mediation has been developed in recent years to address those conflicts that may result in charges of juvenile delinquency.⁴² Juvenile victim-offender mediation programs are typically designed to prevent selected juvenile offenders, who may have committed varying degrees of delinquent acts, from being formally processed through the juvenile courts.⁴³ In these programs, the victim⁴⁴ and the juvenile offender meet in the presence of a trained mediator for the purposes of (1) restoring the victim, (2) providing the offender with an opportunity to account for her offense and (3) facilitating a healing process for the community.⁴⁵ To date, the process has demonstrated a high degree of success in restoring the

restitution agreement. See Mark S. Umbreit, *Mediation of Youth Conflict: A Multi-System Perspective*, 8 CHILD & ADOLESCENT SOC. WORK J. 141, 142 (1991). This agreement may include financial restitution, personal services or even a simple apology. See Cottam, *supra* note 35, at 1537.

³⁸ See Umbreit, *supra* note 19, at 270.

³⁹ See Cottam, *supra* note 35, at 1542-1543.

⁴⁰ See McConnell, *supra* note 2, at 434.

⁴¹ See BUSH, *supra* note 37, at 4.

⁴² See UMBREIT, *supra* note 7, at 5. In addition to disputes involving juvenile offenders, mediation is also being used to address parent-child conflicts and peer conflicts in schools. See BUSH, *supra* note 37, at 7; see also Cottam, *supra* note 35, at 1522-1535 (discussing peer mediation in public schools and parent-child mediation for status offenses or alleged cases of abuse, dependency and neglect); Deborah A. Ledgerwood, *Family Mediation in St. Louis County: Steeled Against the Critics?*, 52 J. MO. B. 351, 351-352 (1996) (discussing generally the use of mediation to resolve intra-family disputes).

⁴³ See Umbreit, *supra* note 37, at 147. The delinquent acts committed by these juveniles may range from nonviolent property crimes to violent felonies. See *id.*

⁴⁴ Juvenile victim-offender mediation generally involves an adult victim. See Umbreit, *supra* note 19, at 270.

⁴⁵ See VICTIM-OFFENDER MEDIATION, *supra* note 23.

victims of juvenile delinquency and decreasing the rate of recidivism among juvenile offenders.⁴⁶

In concert with restorative justice theory, juvenile victim-offender mediation programs focus on the experience of the victim, the need for accountability on the part of the juvenile offender and the importance of providing the parties with the opportunity to actively participate in the sanctioning process.⁴⁷ Victims may express their feelings and concerns directly to the juvenile offenders and describe the impact of the unlawful conduct on the victims' lives.⁴⁸ Juvenile offenders then have the opportunity to account or apologize for their actions, convey the human dimension of their characters and learn to appreciate the costs of violating the rights of others.⁴⁹ As a result of this dialogue, both parties experience a sense of fairness and satisfaction by playing an active role in the resolution of their dispute.⁵⁰ Finally, the community at large is improved to the extent that these programs reduce the likelihood of recidivism and enhance the quality of justice for juvenile offenders.⁵¹

While juvenile victim-offender mediation programs are generally similar in substance, their processes vary significantly depending on the nature of the offenses undertaken by the program, the identity of the participants, the community, the sponsoring agency and the training and background of the mediator.⁵² Despite these varying factors, the Victim-Offender Reconciliation Program (VORP) model is the template from

⁴⁶ See *infra* Part IV.E (discussing the effectiveness of juvenile victim-offender mediation).

⁴⁷ See UMBREIT, *supra* note 7, at 5.

⁴⁸ See Katherine L. Joseph, *Victim-Offender Mediation: What Social & Political Factors Will Affect Its Development*, 11 OHIO ST. J. ON DISP. RESOL. 207, 212 (1996). When victim-offender mediation programs were first introduced, some theorists believed that such face-to-face encounters between victims and their offenders would result in emotional turmoil. See Cottam, *supra* note 35, at 1540. The process has proved to be neither unduly conflictual nor emotionally charged. See *id.*; Umbreit, *supra* note 37, at 148.

⁴⁹ See Joseph, *supra* note 48, at 212-213.

⁵⁰ See Mark S. Umbreit & Robert B. Coates, *Cross-Site Analysis of Victim-Offender Mediation in Four States*, 39 CRIME & DELINQ. 565, 573-575 (1993) (presenting the results of the first large, cross-site analysis of, *inter alia*, perceptions of fairness and client satisfaction in juvenile victim-offender mediation programs); see also Cottam, *supra* note 35, at 1542.

⁵¹ See UMBREIT, *supra* note 7, at 5; Joseph, *supra* note 48, at 213.

⁵² See Cottam, *supra* note 35, at 1519.

which many victim-offender mediation programs are designed.⁵³ The four stages of a VORP program are as follows: (1) referring the case from within the justice system (by police, prosecutors, judges or probation officers), (2) contacting the parties to inform them about the process and ask if they wish to participate, (3) conducting mediation (resulting in either the formation of a resolution or the return of the case to the justice system if an agreement cannot be reached) and (4) remanding the case to the referral source for enforcement of the resolution.⁵⁴ Although a VORP program's primary goal is reconciliation of the parties, issues of rehabilitation, prevention and restitution are also inherently addressed by the process.⁵⁵

While the VORP model has proved quite popular,⁵⁶ the *National Standards for Court-Connected Mediation Programs (Standards)* counsel against the promulgation of a universal model in order to preserve the flexibility of the process.⁵⁷ Noting that there are wide variations in the design and implementation of mediation programs across the United States, the *Standards* caution that general standards risk wasting a court's scarce resources and jeopardize the effectiveness of these programs.⁵⁸ In light of these recommendations, both the Supreme Court of Ohio and the Ohio General Assembly have refrained from issuing standard guidelines and requirements for the growing juvenile victim-offender mediation programs

⁵³ See Brown, *supra* note 20, at 1259. In 1978, the first VORP program in the United States was created in Elkhart, Indiana, as a church-based program designed to promote reconciliation between victims and their offenders. See *id.* at 1259-1260; Umbreit, *supra* note 19, at 264. The VORP agenda is not limited to church-sponsored programs and is widely used by state and community organizations. See Brown, *supra* note 20, at 1258-1261.

⁵⁴ See Joseph, *supra* note 48, at 209-210.

⁵⁵ See Brown, *supra* note 20, at 1260.

⁵⁶ In addition to the VORP model, three other archetypes are increasingly being used for these programs. Briefly, these models are the Community-Based Criminal Justice Private Agency (private nonprofit agencies associated with the criminal justice system), Probation-Based Agency (mediation programs coordinated by probation departments that use either staff or volunteer mediators) and Dispute Settlement Center (independent community dispute settlement centers perform mediation services through their own pool of trained mediators). See Umbreit, *supra* note 19, at 267-270.

⁵⁷ See STATE JUSTICE INSTITUTE, NATIONAL STANDARDS FOR COURT-CONNECTED MEDIATION PROGRAMS Introduction (1992) [hereinafter STANDARDS].

⁵⁸ See *id.*

throughout the state.⁵⁹ Thus, Ohio's courts have remained individually responsible for ensuring that the substance of these programs is narrowly tailored to the needs of the victims and juvenile offenders within their communities.⁶⁰

IV. THE SUBSTANCE OF JUVENILE VICTIM-OFFENDER MEDIATION

While the process of mediation is well-defined, the substantive aspects of each program may vary drastically because each court develops its program according to the needs of its community and available resources. Despite these differences, certain qualities are fundamental to the mediation process and should be taken into account as each program is planned, designed and implemented. Accordingly, the following discussion focuses on the more pertinent issues that need to be addressed by juvenile victim-offender mediation programs and the techniques or safeguards that may be used to ensure that each program is meeting its goals effectively.

A. *Voluntary*

Participation in victim-offender mediation and agreement therein should be voluntary.⁶¹ The consensual nature of the process is deemed fundamental to preserving the accountability, responsibility and proactivity of the parties during the dialogue and negotiation.⁶² Nonetheless, most courts automatically refer disputes to their programs and require the attendance of the parties at the mediation. If a court wants to require attendance at the mediation, the *Standards* state that a court may only require attendance at an initial mediation session during which the parties learn more about the process and then make an informed choice regarding

⁵⁹ See Interview with C. Eileen Pruett, *supra* note 14.

⁶⁰ See *id.* While these courts are primarily responsible for the development and implementation of their programs, they are not alone in the process. The Coordinator of Dispute Resolution Programs for the Supreme Court of Ohio is available to assist in planning, design, training, education, administration and evaluation of the programs. See PRELIMINARY REPORT, *supra* note 8, at 11.

⁶¹ See Cottam, *supra* note 35, at 1520; Umbreit, *supra* note 37, at 142.

⁶² See Umbreit & Coates, *supra* note 50, at 571. Without voluntary participation, the mediation may be instilled with anger and resentment, which may render the process ineffective at both reconciliation and restitution. See *id.*

further participation.⁶³ Furthermore, the *Standards* only sanction mandatory attendance at the mediation itself as long as certain specific conditions are met.⁶⁴

Despite these guidelines, some theorists argue that nearly all mediation programs have an inherently coercive element.⁶⁵ The risk of coercion is even greater for juvenile offenders because they are more likely to feel either vulnerable or powerless in the situation.⁶⁶ The juvenile offender may fear collateral, indirect punishment for his decision not to participate in victim-offender mediation.⁶⁷ Additionally, the juvenile offender may experience guilt or other moral pressures associated with his decision to turn down an opportunity to restore and cooperate with the victim of his unlawful conduct.⁶⁸ Finally, while victims typically articulate their reasons for declining the opportunity to mediate, juvenile offenders are much less likely to explain why they decided not to participate, which may indicate that the aforementioned fears and emotions are in fact present.⁶⁹

In light of these difficulties, a possible solution is the incorporation of safeguards into the program in order to preserve the juvenile offender's right to decline participation.⁷⁰ If a court orders the parties to mediate, a neutral party should meet with the juvenile offender, explain the process in detail, describe the advantages and disadvantages of mediation and assist the juvenile offender in reaching an informed decision regarding participation. This safeguard accords not only with the *Standards'* provisions regarding mandatory attendance,⁷¹ but also with the *Standards'* recommendation that parties needing assistance in deciding whether to

⁶³ See STANDARDS, *supra* note 57, § 5.1 commentary.

⁶⁴ See *id.* Mandatory attendance is only sanctioned when the cost of mediation is publicly funded, when there is no inappropriate pressure to settle and when the mediation program itself is of high quality. See *id.*

⁶⁵ See Brown, *supra* note 20, at 1266; Umbreit, *supra* note 37, at 150. The risk of coercion is especially great when mediation is per court order or statute. See Brown, *supra* note 20, at 1267.

⁶⁶ See Brown, *supra* note 20, at 1267.

⁶⁷ See *id.* at 1264. For example, the juvenile offender may fear that his decision not to participate will negatively influence the juvenile judge's sentencing decision.

⁶⁸ See *id.* at 1266, 1267.

⁶⁹ See UMBREIT, *supra* note 7, at 58.

⁷⁰ See Cottam, *supra* note 35, at 1539; Umbreit, *supra* note 37, at 150.

⁷¹ See *supra* note 64 and accompanying text.

participate be given an individualized orientation to the process.⁷² While the intervention of a neutral party between the referral and the mediation may not fully remove any coercive element in the program, the practice would certainly ensure that the juvenile offender has made an informed choice regarding the limited alternatives before him.

During the mediation, additional safeguards should be present to prevent the juvenile offender from being “clubbed” into an agreement with the victim.⁷³ The *Standards* state that all parties should be informed that “they are not required to make offers and concessions or to settle”⁷⁴ and that mediators should protect the parties’ freedom to make such decisions, especially when unrepresented parties are involved.⁷⁵ Accordingly, the mediator plays a crucial role in protecting the juvenile offender from the effects of inappropriate pressure to settle.⁷⁶ By employing some of these suggestions, courts may preserve the voluntary nature of their programs and ensure that juvenile offenders experience a sense of choice throughout the process.

B. Empowerment and Education

Juvenile victim-offender mediation has proven effective in both empowering the juvenile offender to take responsibility for her actions and educating her as to appropriate methods for conflict resolution in the future.⁷⁷ Instead of remaining passive while an adult decides her fate, the juvenile offender becomes actively involved in resolving the conflict that her delinquent act has caused and gains a sense of self-determination through the process.⁷⁸ This opportunity for accountability typically triggers a significant change in the juvenile offender’s attitude toward the victim

⁷² See STANDARDS, *supra* note 57, § 3.2(b) commentary.

⁷³ See Interview with Nancy H. Rogers, Associate Dean for Academic Affairs and Professor of Law, at The Ohio State University College of Law (Feb. 5, 1997) (discussing generally the difficulty in drawing the line between mandatory participation and inappropriate settlement pressure). Dean Rogers served on the Advisory Board that developed the *Standards* and is a prominent figure in the field of alternative dispute resolution.

⁷⁴ STANDARDS, *supra* note 57, § 11.2 executive summary.

⁷⁵ See *id.* §§ 11.1–11.2 commentary.

⁷⁶ See *infra* Part IV.D (discussing the role of the mediator).

⁷⁷ See BUSH, *supra* note 37, at 5.

⁷⁸ See Umbreit, *supra* note 37, at 141.

and the propriety of her behavior.⁷⁹ Furthermore, mediation introduces the juvenile offender to new methods of communication and negotiation that may be used to resolve her conflicts in the future.⁸⁰ The juvenile offender also receives an intimate education about the impact her conduct has had on the life of an innocent person.⁸¹ By enhancing the empowering and educational nature of their programs, courts may ultimately ensure that juvenile offenders will refrain from intimidation, violence or other unlawful conduct when they are faced with future interpersonal dilemmas.⁸²

C. Informality

The informality of the mediation process is typically cited as one of its greatest strengths.⁸³ The lack of formal procedural and substantive guidelines enhances the parties' ability to carry on an open discussion and provides them with the requisite flexibility for developing innovative and integrative solutions to the conflict.⁸⁴ This free exchange of information and creative planning would not be possible in the formal adversarial judicial system.⁸⁵ Furthermore, this flexibility makes the process suitable for focusing on the needs and interests of the juvenile offender as an individual and allows socioeconomic and environmental factors to be taken into account during the dialogue and negotiation.⁸⁶

While mediation's informality may be one of its positive attributes, the informality of the process is also a "potential debilitating weakness."⁸⁷

⁷⁹ See UMBREIT, *supra* note 7, at 72. The juvenile offender learns how her actions have caused another person's pain or loss, appreciates the opportunity to portray the human dimension of her character and escapes the taint of criminality imposed by juvenile court processes. *See id.*

⁸⁰ See Cottam, *supra* note 35, at 1517.

⁸¹ See UMBREIT, *supra* note 7, at 72-73.

⁸² See *infra* Part IV.E (discussing the effectiveness of juvenile victim-offender mediation on decreasing recidivism).

⁸³ See BUSH, *supra* note 37, at 5; Cottam, *supra* note 35, at 1543. *See generally* Brown, *supra* note 20, at 1271-1289 (discussing how mediation may disserve the interests of both victims and offenders).

⁸⁴ See BUSH, *supra* note 37, at 5.

⁸⁵ *See id.*

⁸⁶ *See supra* note 34 and accompanying text.

⁸⁷ Cottam, *supra* note 35, at 1543; *see also* BUSH, *supra* note 37, at 5; Brown, *supra* note 20, at 1287-1288.

Some theorists argue that the lack of procedural and substantive formality jeopardizes the quality of the mediation and its consequent effect on the parties.⁸⁸ To support their position, these theorists point to the lack of the following safeguards: the right to counsel, the right to judicial review of the restitution agreement, the rules of evidence and uniform sentencing schemes.⁸⁹ These safeguards take on greater importance when the process involves juvenile offenders because juvenile offenders (1) lack knowledge of, and experience in, the criminal justice system; (2) are limited in their ability to evaluate the strength of the victim's case and his strategy; and (3) lack adult-level bargaining and negotiation skills due to their limited education and resources.⁹⁰

These concerns may be addressed by ensuring that the juvenile offender receives guidance from an individual who need not remain neutral during the mediation. This individual may assist the juvenile offender in advocating his position and deciding whether to withdraw from the mediation. The *Standards* provide that "[c]ourts should encourage attorneys to advise their clients on the advantages, disadvantages and strategies for using mediation"⁹¹ and that "parties . . . should have the right to decide whether their attorneys should be present at mediation sessions."⁹² If a right to counsel is not recognized by a program, the program may designate an individual to provide guidance to the juvenile offender throughout the process⁹³ or require the juvenile offender's parents to attend the mediation.⁹⁴ While these safeguards may prove valuable in preserving the fairness of the process as toward the juvenile offender,

⁸⁸ See Brown, *supra* note 20, at 1287.

⁸⁹ See *id.* at 1287–1291 (discussing the offender's need for the protection of public processes to ensure that his rights are not unfairly compromised during the mediation process).

⁹⁰ See *id.* at 1271.

⁹¹ STANDARDS, *supra* note 57, § 10.1 commentary. The *Standards* also suggest that courts and mediators should work with the bar in educating lawyers about the positive roles they may play in mediation. See *id.* § 10.3 commentary.

⁹² *Id.* § 10.2 commentary. Of course, if the victim has retained counsel for the mediation, the juvenile offender's lack of counsel is an even greater concern. See Brown, *supra* note 20, at 1289.

⁹³ See *infra* Part V.A.1 (discussing Franklin County's use of a "community advocate" to assist juvenile offenders during the mediation process).

⁹⁴ See *infra* Parts V.A.2 & V.C.1 (discussing the Montgomery and Holmes County policies respectively regarding attendance of parents).

programs must ensure that the scope of these safeguards does not hinder the juvenile offender in actively determining the course he will take during the mediation.

D. *The Role of the Mediator*

An oft-quoted observation regarding mediation is that "the quality of the process depends heavily upon the quality of the practitioner."⁹⁵ The mediator must maintain the "spontaneity, vitality and creativity" of the mediation process⁹⁶ and work to dispel the lack of trust between the parties by facilitating open communication and negotiation.⁹⁷ The proficiency of the mediator becomes even more pertinent in juvenile victim-offender mediation because the juvenile offender is in greater need of clear leadership and guidance during the process.⁹⁸ In light of the mediator's important responsibilities, programs must provide mediators with comprehensive training and pay special attention to mediator performance.⁹⁹

According to the *Standards*, courts should only refer cases to high-quality mediators and must carefully monitor the mediators' subsequent performance.¹⁰⁰ Though the *Standards* do suggest various requirements for mediators,¹⁰¹ courts are essentially free to require a certain level of skill, knowledge and personal characteristics for the mediators in their mediation programs. For juvenile victim-offender mediators, the requirements should reflect the challenges inherent in mediation involving juvenile offenders. The mediator should likely be trained (1) in the use of a caucus to enhance the juvenile offender's ability to participate effectively,¹⁰² (2) to recognize

⁹⁵ Cottam, *supra* note 35, at 1543; *see also* BUSH, *supra* note 37, at 5.

⁹⁶ Umbreit & Coates, *supra* note 50, at 581.

⁹⁷ *See* Cottam, *supra* note 35, at 1520.

⁹⁸ *See* BUSH, *supra* note 37, at 6; Umbreit & Coates, *supra* note 50, at 573.

⁹⁹ *See* BUSH, *supra* note 37, at 6 (noting that juvenile victim-offender mediation programs typically do not address the importance of these issues); Cottam, *supra* note 35, at 1543 (demanding that mediators have exceptionally high ethical standards and levels of credibility).

¹⁰⁰ *See* STANDARDS, *supra* note 57, §§ 6.1, 6.5.

¹⁰¹ *See id.* §§ 6.1–6.6 (recommending, *inter alia*, diversity within the group of mediators, familiarity with court procedures and training that includes role playing).

¹⁰² *See* Cottam, *supra* note 35, at 1521. A caucus is a private meeting between the mediator and a party that is short in duration and used to build trust and rapport between

when the juvenile offender may be unable to advocate his interests;¹⁰³ (3) in the technique of co-mediation, which may be used in multi-party cases or cases in need of a gender or racial balance;¹⁰⁴ and (4) in strategies for teaching the juvenile offender communication and negotiation skills during the process.¹⁰⁵ By providing mediators with advanced training specific to mediation with juvenile offenders, programs may ensure that the quality of their practitioners does not detract from the quality of their programs.

E. Effectiveness

Juvenile victim-offender mediation has proved effective in producing a restitution plan with which the juvenile offender later complies¹⁰⁶ and potentially reducing the likelihood of subsequent, more serious offenses by the juvenile offender.¹⁰⁷ Approximately ninety percent of all juvenile victim-offender mediations result in a restitution agreement, and approximately eighty percent of these mediations achieve full compliance by the juvenile offender.¹⁰⁸ To explain this high rate of compliance, theorists point to mediation's emphasis on self-determination and accountability. A juvenile offender is more likely to honor a self-created, personal obligation to the victim than a penalty issued by court order.¹⁰⁹ Furthermore, most of the completed studies indicate that juvenile offenders who participate in mediation are less likely to commit subsequent offenses than those juvenile offenders who have proceeded through the courts.¹¹⁰ If

the two. This type of meeting is often effective in "challenging, probing or pushing" each participant toward effective conflict resolution without jeopardizing the mediator's appearance of neutrality. *Id.*

¹⁰³ See *id.* The mediator has an ethical duty to end the mediation when a party is unable to advocate his own interests. See *id.*

¹⁰⁴ See UMBREIT, *supra* note 7, at 136; Cottam, *supra* note 35, at 1539.

¹⁰⁵ See BUSH, *supra* note 37, at 6 (arguing that the mediator's role also includes addressing the issues of self-determination, responsibility and respect).

¹⁰⁶ See Umbreit, *supra* note 19, at 272; Umbreit & Coates, *supra* note 50, at 578.

¹⁰⁷ See Nugent & Paddock, *supra* note 1, at 365.

¹⁰⁸ See Umbreit, *supra* note 19, at 272.

¹⁰⁹ See Umbreit & Coates, *supra* note 50, at 582.

¹¹⁰ See Nugent & Paddock, *supra* note 1, at 365 (documenting the effect of juvenile victim-offender mediation on severity of reoffense while controlling for age, gender, race, education, previous delinquent behavior and family size and structure); Umbreit, *supra* note 19, at 272 (noting that juvenile offenders committed fewer and less

subsequent offenses are committed by the juvenile offender, they are usually less severe in nature than the first offense.¹¹¹ These results are typically explained by the inverse relationship between remorse for a victim and aggressive behavior toward another.¹¹² Finally, while the body of research on these issues is relatively small,¹¹³ the fact that several courts in Ohio have specifically adopted juvenile victim-offender mediation programs for the purpose of restoring victims and reducing recidivism indicates a high level of confidence in these initial findings.¹¹⁴

In light of the fact that the process and substance of juvenile victim-offender mediation is well-established, courts must now concentrate on measuring the effectiveness of these programs in reaching their specific goals. Accordingly, the *Standards* devote an entire section to guidelines for effectively evaluating the mediation process.¹¹⁵ The Supreme Court of Ohio recognizes the importance of both monitoring and evaluation and encourages courts to incorporate these practices into their programs as they grow in scope.¹¹⁶ Preliminary indications of the effectiveness of the juvenile victim-offender mediation programs in Ohio will ultimately assist the Supreme Court of Ohio in providing greater information and resources to these programs as they attempt to expand their horizons. Accordingly, a review of the process, substance and preliminary indications of success of the juvenile victim-offender mediation programs in Ohio may be valuable in determining future directions.

serious additional crimes within one year following participation in mediation than juvenile offenders who proceeded through the courts). *But see* Smith, *supra* note 16, at 281 (concluding that juvenile victim-offender mediation has not decreased recidivism among juvenile offenders).

¹¹¹ See Nugent & Paddock, *supra* note 1, at 365.

¹¹² See *id.* at 355.

¹¹³ See *id.*

¹¹⁴ See *infra* Part V (discussing, inter alia, the purposes of several of the juvenile victim-offender mediation programs in Ohio).

¹¹⁵ See STANDARDS, *supra* note 57, §§ 16.1–16.3 commentary. While monitoring is an internal function of the program, evaluation is typically conducted by an external entity that may assess whether the program is meeting its goals from a policy perspective. See *id.* § 16.1 commentary. Additionally, the level of evaluation—whether the evaluation relies on empirical data, quantitative data or observations from the case files—should be tailored to the precise goals set by each individual program. See *id.*

¹¹⁶ See Interview with C. Eileen Pruett, *supra* note 14.

V. JUVENILE VICTIM-OFFENDER MEDIATION IN OHIO

As stated above, Chief Justice Moyer established the Committee soon after his election in 1989. Based on Recommendation One in the Committee's Preliminary Report of 1991, the Supreme Court of Ohio created the position of Coordinator of Dispute Resolution Programs for the Supreme Court of Ohio (Coordinator).¹¹⁷ Upon receiving a small budget in July 1993¹¹⁸ and a small grant from the Office of Criminal Justice Services (OCJS),¹¹⁹ the Coordinator, in conjunction with the Committee, initiated the Victim-Offender Mediation Training Project (Project) for the courts of Ohio. The Project has continued in its efforts to the present day.

The Project began in the fall of 1993 when court representatives were invited to attend a Supreme Court-sponsored program titled "Juvenile Justice Mediation Training: The Training of Trainers."¹²⁰ The program consisted of a five-day training session that addressed the issues of basic victim-offender mediation, mediation within the context of the juvenile justice system, effective training for mediators and techniques for implementing a court-connected¹²¹ mediation program. The Project ensured that the program did not promote one specific victim-offender mediation model, but rather provided courts with the tools they could use to tailor their programs to their individual jurisdictions. Of the eighty-eight counties in the state, nine sent representatives to this initial program, and as a result, eight counties either initiated or expanded the scope of their juvenile mediation programs.¹²²

¹¹⁷ See *id.* Unless otherwise noted, the information in this section regarding the Project was obtained during this interview.

¹¹⁸ The Coordinator received \$20,000 from the Supreme Court of Ohio's budget.

¹¹⁹ The Coordinator received \$20,000 from OCJS. OCJS is the state agency that administers the federal grant monies for the criminal justice system in Ohio. A portion of these federal funds is earmarked for juvenile delinquency prevention and court delay reduction.

¹²⁰ The program was conducted by Mark Umbreit and Melinda Smith, both of whose works are referred to throughout this Note.

¹²¹ A court-connected program is defined as "any program or service, including a service provided by an individual, to which a court refers cases on a voluntary or mandatory basis, including any program or service operated by the court." STANDARDS, *supra* note 57, at iv.

¹²² The eight counties developed or expanded their programs as follows: Butler (VORP model victim-offender mediation), Clermont (truancy mediation), Delaware (mediation of family disputes and juvenile victim-offender mediation), Fayette (peer

In light of these positive results, the Project obtained a grant from OCJS for 1995,¹²³ and the funds were used to (1) assist courts in receiving advanced training in victim-offender mediation, (2) encourage further development of victim-offender mediation programs throughout the state and (3) evaluate existing programs and support their expansion. In sum, five workshops were conducted during 1995. The Project worked with a total of 134 participants, who represented 28 counties and areas ranging from law enforcement to prosecution and defense. Approximately 118 of these 134 participants were associated with either juvenile courts or the juvenile justice system in general. During 1995, the Project conducted more than one hundred hours of training, and the issues presented during this training ranged from building mediation skills to reducing the delays inherent in the justice system.

To build on these achievements, the Project secured a continuation grant for 1996.¹²⁴ With these funds, the Project sought to increase "second-generation" training by encouraging each court to apply for up to \$3000 in grant monies to be used for basic and advanced victim-offender mediation training. Fifteen counties received funds pursuant to this initiative and used the funds in accordance with the training needs of their court programs.¹²⁵ To determine its plans for the future, the Project used the remaining funds to evaluate the design and implementation of the existing programs and encourage cost-effective data collection by the courts.

mediation in public schools), Franklin (juvenile victim-offender mediation), Lucas (mediation of status offenses and particularly truancy charges), Montgomery (mediation of parent-child conflicts and truancy charges) and Van Wert (peer and parent-child mediation). Richland County is the ninth county that sent representatives to the program.

¹²³ In 1995, the Project received funds totaling \$57,840. Of this sum, 75% was received from OCJS, and the remaining 25% was a cash match from the Supreme Court of Ohio.

¹²⁴ In 1996, the Project received funds totaling \$43,236. Of this sum, 75% was received from OCJS, and the remaining 25% was a cash match from the Supreme Court of Ohio.

¹²⁵ In addition to the nine counties sending representatives to the 1993 program, the counties of Cuyahoga, Erie, Hocking, Holmes, Jackson and Perry also received funds from the 1996 grant. *See supra* note 122.

JUVENILE VICTIM-OFFENDER MEDIATION

To continue its efforts in monitoring and evaluation, the Project dedicated a large portion of its 1997 grant monies¹²⁶ toward a five-county study of programs that developed as a result of the 1993 Supreme Court-sponsored training.¹²⁷ The study is designed to examine the demographics of the juvenile participants, the quality of the agreements produced by the mediations, the rate of compliance with these agreements and the subsequent behavior of the juvenile participants. The five participating counties have already submitted the requested data, and the study's final report is due by the summer of 1998. Based on this report, the Project hopes to develop an implementation manual for juvenile victim-offender mediation programs in Ohio, part of which will be devoted to strategies for effectively managing funding received from various supporting entities. The Project's plans for 1998 include (1) continuing research and program development, (2) obtaining a grant to fund staff for pilot projects in southwestern Ohio and (3) establishing a core group of mediation trainers for the state.

The Project's initiatives have set the stage for the development of several juvenile victim-offender mediation programs in the metropolitan, suburban and rural counties of Ohio. Some counties have used the knowledge and training provided by the Project to implement victim-offender mediation programs in their juvenile courts. Some counties have utilized the mediation training in other courts and may be in need of additional stimuli or resources to add a juvenile victim-offender component. Finally, a few counties have developed their programs independent of the Project by contacting sources in other states. For each of these counties, the Supreme Court of Ohio has played either a direct or an indirect role in encouraging the use of mediation in juvenile courts. The following six counties represent a sampling of the programs that have developed amidst this atmosphere of state support.

¹²⁶ In 1997, the Project received funds totaling \$86,329. Of this sum, 75% was received from OCJS, and the remaining 25% was a cash match from the Supreme Court of Ohio. The Project is scheduled to receive the same amount of funds in 1998.

¹²⁷ The counties participating in the study are Butler (juvenile victim-offender mediation), Clermont (truancy mediation), Fayette (peer mediation), Lucas (mediation of status offenses and truancy mediation) and Montgomery (parent-child and truancy mediation).

A. Metropolitan Counties

1. Franklin County

One of the newest juvenile victim-offender mediation programs in Ohio is administered by the Juvenile Division of the Franklin County Court of Common Pleas.¹²⁸ The mediation department for this division of the court implemented the program for the following purposes: (1) to improve the quality of justice in Franklin County; (2) to relieve the court's docket by providing an alternative to adjudication; (3) to reduce recidivism among juvenile offenders; and (4) to improve the experience of victims within the juvenile justice system.¹²⁹ The program began test cases in September 1996 and was officially inaugurated in January 1997.¹³⁰ In 1997, the program conducted approximately 369 mediations.¹³¹

With funds received from the Project's grant for 1996, the court conducted a three-day, twenty-four-hour training session for thirty-seven staff mediators and community volunteers. The session included sixteen hours of basic mediation skills training and eight hours of substantive

¹²⁸ Franklin County, which encompasses the entire Columbus metropolitan area, has a population of approximately 961,437. The Juvenile Division of the Court of Common Pleas, which is paired with the Domestic Relations Division, is composed of five judges, and the 1996 docket included approximately 8664 juvenile delinquency cases. See OHIO COURTS SUMMARY 1996, *supra* note 5, at 2H, 4H.

¹²⁹ See Letter from Judge Katherine S. Lias, Franklin County Court of Common Pleas, Division of Domestic Relations and Juvenile Branch, to the Coordinator (1995) (on file with the Coordinator).

¹³⁰ See Interview with Jody McFarland, Assistant Coordinator for the Juvenile Court Mediation Program, Franklin County Court of Common Pleas, Division of Domestic Relations and Juvenile Branch, in Columbus, Ohio (Jan. 21, 1997); Interview with Margaret E. Honoré Miller, Mediation Program Coordinator, Franklin County Court of Common Pleas, Division of Domestic Relations and Juvenile Branch, in Columbus, Ohio (Jan. 21, 1997). Since these interviews in January 1997, both Jody McFarland and Margaret Miller have left the mediation department in this division of the court. At present, Maara Fink is serving as the mediation program coordinator. See Telephone Interview with Maara Fink, Mediation Program Coordinator, Franklin County Court of Common Pleas, Division of Domestic Relations and Juvenile Branch (Mar.-Apr. 1998). Unless otherwise noted, the information for Franklin County was obtained during the January 1997 interview with Jody McFarland and Margaret Miller.

¹³¹ The cases have typically involved charges of assault, domestic violence and property damage.

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training specific to mediation involving juvenile offenders. During the eight hours of substantive training, mediators learned how to effectively use caucusing and co-mediation not only to create a balance of power in the mediation process, but also to ensure that juvenile offenders are able to articulate their needs and interests during the negotiation. Additionally, the mediators were encouraged to educate juvenile offenders in alternative approaches for dealing with future interpersonal conflicts.¹³²

The program receives referrals from the intake office, which has broad discretion over which cases are assigned to the program. The parties are then sent a letter that documents (1) that the case has been referred to mediation, (2) where and at what time they are to appear and (3) the number they should call if they have any questions or concerns.¹³³ Once the parties arrive for the mediation, the mediator takes active steps to educate them about the process. The mediator ensures that the juvenile offenders are aware that they may choose between participation in mediation or an appearance before the court.¹³⁴ The mediators have found that once juvenile offenders learn that mediation occurs in a relaxed, informal atmosphere, they are much more comfortable and eager to participate. Finally, if an agreement is reached, the mediator typically monitors compliance with a follow-up telephone call.¹³⁵

The program has instituted several safeguards in order to diminish the risks inherent in mediation's informality. Both parties are permitted to bring counsel to the mediation.¹³⁶ The role of counsel is limited; counsel may only advise and may not actively participate in the negotiation. The program also uses volunteers called "community advocates" to serve as a

¹³² The mediators have typically found that victims assist in this process because they are concerned about the juvenile offender's personal development and seek to have a positive impact on her future.

¹³³ Ideally, a case manager would initiate contact with the parties in order to determine their willingness to participate in mediation. At present, the program does not have a case manager, and a letter is used to minimize the mediator's contact with the parties prior to the mediation.

¹³⁴ Some juvenile offenders have chosen to forgo the mediation process, and some victims have chosen to proceed to court in order to impress upon the juvenile offender that delinquent conduct is a serious matter.

¹³⁵ If an agreement is not reached, the case is referred back to the intake office for processing through the juvenile court.

¹³⁶ When the mediation department learns that a party is bringing counsel, the other party is contacted and given the opportunity to employ counsel, attend alone or decline participation.

power-balancing presence in the mediation. Although the community advocate works with the mediator, he need not remain neutral and may serve as a mentor to the juvenile offender.¹³⁷ The community advocate assists the juvenile offender in exploring the causes of his delinquent behavior, ensures that the juvenile offender effectively conveys these causes during the mediation and emphasizes the productive role that the juvenile offender should be playing in society.

The program has two specific goals for 1998.¹³⁸ First, the coordinator plans to increase the number of referrals by promoting the program within the juvenile court. By holding in-service training sessions in order to educate court personnel about the purpose and process of mediation, the coordinator hopes that the juvenile court will refer a greater number of cases to the program. Second, in light of the expected increase in referrals, the coordinator will soon be hiring a staff mediator for this specific area of the mediation department. If the program is successful in implementing these goals, the size of the juvenile victim-offender mediation program may well grow beyond the coordinator's expectations.

2. *Montgomery County*

In 1991, the Juvenile Division of the Montgomery County Court of Common Pleas¹³⁹ began to refer assault cases to the Dayton Mediation Center (Center).¹⁴⁰ The court hoped that this partnership would (1) reduce the juvenile court's delinquency caseload, (2) promote community involvement in addressing juvenile delinquency and (3) reduce the rate of

¹³⁷ Community advocates are also available to assist victims who may be fearful of the juvenile offender.

¹³⁸ See Telephone Interview with Maara Fink, *supra* note 130. The information regarding the program's plans for 1998 was provided entirely by Maara Fink.

¹³⁹ Montgomery County, which encompasses the entire Dayton metropolitan area, has a population of approximately 573,809. The Juvenile Division of the Court of Common Pleas is composed of two judges, and the 1996 docket included approximately 4921 delinquency cases. See OHIO COURTS SUMMARY 1996, *supra* note 5, at 2H, 4H.

¹⁴⁰ Despite the fact that the court began its program before the inauguration of the Project in 1993, the court sent representatives to the 1993 and 1995 Supreme Court-sponsored programs and obtained funding pursuant to the 1996 grant. See Interview with C. Eileen Pruett, *supra* note 14.

recidivism among juvenile offenders.¹⁴¹ Finding the relationship to be successful, the court has expanded the scope of its referrals to include cases that involve juvenile offenders facing single or multiple charges of assault, menacing, aggravated menacing, criminal damaging, criminal mischief, criminal trespass, unauthorized use of a motor vehicle, telephone harassment or domestic violence.¹⁴² In 1997, the court referred 369 cases to the Center for both juvenile-juvenile and victim-offender mediation.¹⁴³ Of these referrals, a total of 120 mediations were held, and 107 of these mediations resulted in resolution agreements.¹⁴⁴ Finally, the court has found that juvenile offenders who have participated in the mediation program are four to five times less likely to return to the court on assault charges than those who proceeded through the juvenile court processes.¹⁴⁵

The Center provides its mediators with comprehensive training.¹⁴⁶ Volunteers who desire to mediate at the Center attend an initial sixteen-hour training session on the fundamentals of victim-offender mediation. They then undergo an internship with experienced mediators and observe the techniques introduced during their initial training. At the end of the internship, the volunteers attend an intermediate training session of eight hours, which focuses on the various nuances in mediation involving juvenile offenders. Finally, the volunteers are interviewed by the coordinator in order for each candidate to be individually assessed before certification. The Center reviews the effectiveness of its mediators by asking the parties to complete exit evaluations after each mediation.

Unlike most programs, the Center does not take active steps to ensure that the juvenile offender voluntarily participates in the mediation.¹⁴⁷ Rather, the Center ensures that the agreement itself is entered into voluntarily and that neither victims nor juvenile offenders experience

¹⁴¹ See Telephone Interview with Larry Shen, Managing Referee of the Montgomery County Juvenile Court (Feb. 1997-Apr. 1998).

¹⁴² See *id.*

¹⁴³ See Telephone Interview with Thomas J. Wahlrab, Coordinator of the Dayton Mediation Center (Feb. 1997-Apr. 1998).

¹⁴⁴ See *id.*

¹⁴⁵ See Telephone Interview with Larry Shen, *supra* note 141.

¹⁴⁶ See Telephone Interview with Thomas J. Wahlrab, *supra* note 143. The information regarding the Center's training program was provided entirely by Thomas Wahlrab.

¹⁴⁷ See *id.* The information regarding the mediation process was provided entirely by Thomas Wahlrab.

inappropriate pressure to settle. Upon referral, two letters are sent to the parties, from the judge and the Center respectively, which inform the parties that the case has been referred to mediation and that they should contact the Center. When they contact the Center, the parties are given preliminary information regarding the time and place of the mediation, and more detailed information is given to them once they arrive at the Center. If the juvenile offender declines participation or the mediation fails to produce an agreement, the case is referred back to the court. If the victim declines participation, she does so knowing that the case will be dismissed by the court.¹⁴⁸ If the parties agree to mediate the dispute, the mediator then takes active measures to ensure that the parties consensually adopt an agreeable resolution.¹⁴⁹ Within three months of the mediation, the Center contacts the victim for a post-evaluation and compliance report.¹⁵⁰

While the court is highly satisfied with the quality of the Center's mediation services, the court is beginning to plan and design its own mediation department.¹⁵¹ The mediation department will manage those cases that are not presently being referred to the Center, such as custody cases or cases involving abuse, dependency or neglect. In light of the fact that the court's eight referees are trained mediators and its two judges are highly supportive of the process, the mediation department may likely be established by May 1998.

¹⁴⁸ If the victim prefers for the court to handle the case, she must attend the mediation and express this sentiment in order for the case to be referred back to the court.

¹⁴⁹ The Center often requires the parents of the juvenile offender to attend the mediation because they may play an effective role in ensuring compliance with the agreement.

¹⁵⁰ If the juvenile offender has not complied with the agreement, the Center has the discretion as to whether the case should be sent back to the court.

¹⁵¹ See Telephone Interview with Larry Shen, *supra* note 141. The information in the concluding paragraph was provided entirely by Larry Shen.

B. Suburban Counties

1. Butler County

Pursuant to a grant from OCJS in 1992, the Butler County Juvenile Court¹⁵² established its Victim-Offender Mediation Program (VOM) to (1) promote reconciliation between the victim and the juvenile offender, (2) restore the victim, (3) decrease recidivism by empowering and educating the juvenile offender and (4) save taxpayers the costs of incarceration and extended court proceedings.¹⁵³ VOM generally mediates cases involving nonviolent property offenses, including both misdemeanors and felonies, regardless of whether the juvenile is a first-time or repeat offender.¹⁵⁴ In 1997, VOM mediated 45 cases, involving a total of 84 juvenile offenders and 139 victims. Finally, VOM collected approximately \$9551 for the restitution of the victims, with only \$1522 still owed by the juvenile offenders at the end of the year.¹⁵⁵

VOM consists of two staff positions—a program coordinator and a program aide. These staff members work together to accept the referrals from the court, process the case for the mediator and monitor the agreement after the mediation. VOM maintains a roster of up to fifteen volunteer mediators, each of whom receives sixteen hours of training. While this number of mediators has proved to be manageable, VOM hopes to increase the number of its staff in order to train a greater number of volunteers in the future. From 1992 to 1996, VOM had an annual budget of \$51,900, which included grant monies from both OCJS and the federal

¹⁵² Butler County, which is located in the southwest corner of the state, has a population of approximately 291,479. The Juvenile Division of the Court of Common Pleas is composed of one judge, and the 1996 docket included approximately 2945 delinquency cases. See OHIO COURTS SUMMARY 1996, *supra* note 5, at 2H, 4H.

¹⁵³ Unless otherwise stated, the information for Butler County was obtained from the program documents sent by Kay Shearer, Program Aide for the Juvenile Division of the Butler County Court of Common Pleas, to the author.

¹⁵⁴ In 1997, the program mediated the following types of cases: aggravated robbery, robbery, vandalism, criminal damage and mischief, aggravated burglary, breaking and entering, criminal trespass, theft, unauthorized use of a motor vehicle and receiving stolen property.

¹⁵⁵ The juvenile offenders also completed 679 hours of community service as part of their restitution agreements.

government. At present, VOM has no operating budget, and the salaries of the staff are paid by the court and the Ohio Department of Youth Services.

Once the staff member determines that the referral is indeed appropriate for mediation, the case is given to the mediator. The mediator then meets with each party separately to explain the mediation process, establish the ground rules for the mediation, determine whether the juvenile offender is capable of paying restitution and evaluate whether the party is both willing and able to participate effectively. Thus, before the case is actually mediated, a court officer, a staff member and a mediator have assessed its propriety for mediation in order to prevent problem cases from entering the process. The mediations have produced a variety of final agreements—a promise by the juvenile offender to pay restitution, a promise by the juvenile offender to perform work for the victim, a commitment by the juvenile offender to perform community service and a behavioral contract in which the parties agree to conduct themselves in a certain manner in the future. Parties generally come to an agreement during the mediation, and court intervention is necessary only when the juvenile offender fails to comply with the resolution.

While VOM has yet to statistically document its effectiveness statistically, a number of concise surveys are used to determine how the victim, the juvenile offender and the mediator experience the process. VOM is also part of the five-county study initiated by the Project in 1997, and the court will use the results of the study to evaluate the effectiveness of VOM in reducing recidivism. For the future, the court is planning and designing a victim-offender mediation program for the nearby Juvenile Offender Rehabilitation Center.¹⁵⁶ By combining this initiative with its well-established mediation program, the court hopes to multiply its efforts in decreasing incidents of juvenile delinquency and promoting a sense of community justice throughout the county.

2. Erie County

In April 1996, the Erie County Court of Common Pleas¹⁵⁷ inaugurated a juvenile victim-offender mediation program for the primary purpose of

¹⁵⁶ The rehabilitation center serves five counties, and the residents are typically repeat, felony offenders serving six to twelve month sentences.

¹⁵⁷ Erie County, which is located in the north-central part of the state, has a population of approximately 76,779. The Juvenile Division of the Court of Common Pleas, which is paired with the Domestic Relations Division, is composed of one judge,

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restoring the victims of juvenile delinquents.¹⁵⁸ To best serve these victims, the program has the following specific aims: (1) establish an atmosphere of trust during the mediation, (2) ensure that the parties fully disclose all relevant information during the dialogue, (3) obtain the parties' full commitment to the mediation process and (4) employ high-quality professional mediators who adhere to the ethical standards of the Erie County Court of Common Pleas and other professional organizations. The juvenile offenders who participate in the mediations have a remarkably high rate of compliance in fulfilling their obligations to the victims.¹⁵⁹

The director of intake and probation for the juvenile division of the court of common pleas is responsible for referring delinquency cases to the program's two staff mediators. While the director generally adheres to the criteria outlined in the *Standards* for determining whether the case is appropriate for mediation,¹⁶⁰ the director remains flexible in his approach and often exercises independent judgment in deciding whether mediation may actually be the best course for the parties.¹⁶¹ After the mediator obtains the consent of the parties, the mediator meets individually with each party and candidly explains the advantages and disadvantages of mediation. Both staff mediators attended the original training session conducted by the

and the 1996 docket included approximately 5056 delinquency cases. *See* OHIO COURTS SUMMARY 1996, *supra* note 5, at 2H, 4H.

¹⁵⁸ *See* Telephone Interview with Chris Perrin, Director of Intake and Probation for the Erie County Court of Common Pleas, Juvenile and Domestic Relations Division (Feb. 1997–Apr. 1998). Unless otherwise noted, the information for Erie County was obtained during this interview.

¹⁵⁹ *See* Telephone Interview with Greg K. Rhoad, Mediator for the Erie County Court of Common Pleas, Juvenile and Domestic Relations Division (Feb. 1997–Apr. 1998).

¹⁶⁰ The *Standards* state that cases appropriate for mediation are those (1) with a high probability of success, (2) in which continued litigation would harm either nonparties or the parties themselves or (3) in which the case, if not mediated, would likely require continued court involvement. *See* STANDARDS, *supra* note 57, § 4.1 executive summary. The *Standards* suggest that cases inappropriate for mediation are those (1) in which there is a need for public sanctioning, (2) in which there are repetitive violations that need to be dealt with collectively and uniformly or (3) in which parties are unable to effectively negotiate for themselves and are in need of counsel. *See id.* § 4.2 executive summary.

¹⁶¹ In accordance with the *Standards*, the director attempts to provide the opportunity to mediate to as many parties as possible. *See id.* §§ 1.0, 1.3 commentary (noting that “all barriers created by gatekeepers need to be lowered” in order to refer as many appropriate cases as possible to the mediation program).

Project in the fall of 1993 and received advanced training through the funds provided by the 1996 grant. This advanced training focused on the techniques of co-mediation and caucusing, involved extensive role playing and addressed adolescent developmental issues. Since this advanced training, the mediators have further refined their skills by attending seminars on cultural diversity, gender awareness, anger management and other issues that relate to juvenile victim-offender mediation. Detailed surveys and a two-month post-mediation monitoring period are used to evaluate the program's effectiveness.

Between April 1996 and December 1997, the program mediated 237 cases, and all but three came to an agreement.¹⁶² Of those that produced an agreement, all but three have reached full compliance.¹⁶³ Furthermore, only a few juvenile offenders have returned to the program, and a clear majority of the juvenile offenders whose cases were mediated have yet to commit subsequent offenses.¹⁶⁴ The program has two specific goals for 1998. First, the program has recently received funds from the Supreme Court of Ohio that will assist the mediators in implementing family group conferencing as a component of the mediation process. Second, having recently learned that the county's diversion programs removed approximately 650 cases from courts' dockets in 1997, the director hopes to refer a greater number of cases to the juvenile victim-offender mediation program. By further reducing the judicial costs associated with juvenile delinquency, the program may expand its goal of restoring victims by extending its benefits to the community at large.

C. Rural Counties

1. Holmes County

The Holmes County¹⁶⁵ program is one of the few programs in Ohio that has developed without grants or training provided by the Supreme

¹⁶² See Telephone Interview with Greg K. Rhoad, *supra* note 159.

¹⁶³ See *id.*

¹⁶⁴ See *id.*

¹⁶⁵ Holmes County, which is located in the central part of the state, has a population of approximately 32,849. The Juvenile Division of the Court of Common Pleas, which is paired with the Probate Division, is composed of one judge, and the 1996 docket included approximately 194 delinquency cases. See OHIO COURTS SUMMARY 1996, *supra* note 5, at 3H, 4H.

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Court of Ohio.¹⁶⁶ In January 1993, a local church decided that its congregation should become more involved in the community, and a suggestion was made that the church look into the VORP program in Elkhart, Indiana.¹⁶⁷ The church established a committee and organized a series of public meetings, which were attended by officials from the local courts, officers in the probation department and other members of the community. In light of this public support for such a program, the eventual president of the program attended a seminar on organizing VORP programs, which was sponsored by the Restorative Justice Ministry of Fresno, California. Upon her return, the committee decided to inaugurate the program officially, and in June 1994, the Holmes County Victim-Offender Reconciliation Program was incorporated.¹⁶⁸

Shortly after the program's incorporation, the first mediator training session was conducted with the assistance of personnel from the VORP program in Elkhart, Indiana, and the trainings that have followed have been identical in substance. The twelve-hour training session includes an introduction to restorative justice theory, basic victim-offender mediation training and attention to the interpersonal skills needed in high quality mediators. Furthermore, six hours of the training are dedicated to role playing, which allows each mediator to develop her own conflict management style in a learning environment. Finally, the mediators-in-training shadow experienced mediators before they conduct mediation on their own. As of December 1997, the program has trained twenty-six mediators, and trainings are typically held on an annual basis.

The mediation process begins upon referral of the case from one of the three courts in Holmes County—Common Pleas Court, County Court or Juvenile Court.¹⁶⁹ From June 1994 to the present, the program has received approximately 242 referrals from the courts, and of those referrals, approximately 151 involved juvenile offenders.¹⁷⁰ Upon referral, the

¹⁶⁶ See Telephone Interview with Diane Stromme Mast, President of the Board of Trustees of the Holmes County Victim-Offender Reconciliation Program, Inc. (Feb. 1997–Apr. 1998).

¹⁶⁷ This suggestion was made by Diane Stromme Mast.

¹⁶⁸ The Board of Trustees is a nonprofit corporation that serves as the organizational structure for the program.

¹⁶⁹ A referral will be made when the juvenile offender has entered a guilty plea with the court, and the program will accept both misdemeanor and felony offenses.

¹⁷⁰ From June to the end of 1994, the program mediated 46 cases, which involved 37 juvenile offenders. In 1995, the program mediated 107 cases, which involved 65

program's case manager prepares a file for the mediator,¹⁷¹ and the mediator then initiates and maintains all contact with the parties throughout the process. The mediator visits each party in order to provide them with a description of the process, explain that the goal of the process is reconciliation and obtain each party's consent to meeting with the other party. During the mediation, the mediator facilitates discussion around (1) the parties' experience regarding the offense, (2) the steps that may be taken to "right the wrong" and (3) the parties' future interactions.¹⁷² If the parties reach an agreement, the agreement is reduced to writing, and a copy is given to each party and the referral source.¹⁷³

The program is presently attempting to recruit the staff and resources needed to monitor contract completion and evaluate the program's effectiveness. As stated by the president, the staff is involved in "program building at this point" and is only taking on additional responsibilities when the program has the resources to perform the obligations effectively.¹⁷⁴ Thus, while planning to increase its scope in the future, the president intends to continue providing a quality program for both victims and juvenile offenders within the community.

juvenile offenders. In 1997, the program mediated 38 cases, which involved 8 juvenile offenders. The variations among these figures may be explained by turnover on the bench and in the program's staff.

¹⁷¹ The case manager is a recent addition to the program and was hired in August 1996.

¹⁷² The president notes that this discussion usually resembles "cheerleading" because victims typically express confidence in the juvenile offender's ability to meet these expectations. For example, the victim may state that she expects the juvenile offender to finish high school and knows that he may make valuable contributions to the community. The juvenile offender then agrees to meet these expectations, and the affirmation is incorporated into the agreement.

¹⁷³ If the juvenile offender fails to fulfill the terms of the agreement, the victim is directed to call the court for further action.

¹⁷⁴ This approach illustrates the *Standards'* position that mandatory guidelines risk wasting a court's resources because such guidelines fail to take into account local needs and available resources. See STANDARDS, *supra* note 57, at ii. If the program were required by rule or statute to have a full range of enforcement and monitoring mechanisms, the program might not have been able to develop to its present state.

2. Perry County

Representatives from the Juvenile Division of the Perry County Court of Common Pleas¹⁷⁵ attended one of the 1995 Supreme Court-sponsored workshops on victim-offender mediation.¹⁷⁶ The court also received funds from the Project's 1996 grant and conducted an additional twenty-hour victim-offender training in conjunction with Hocking and Jackson Counties.¹⁷⁷ While the court is in the early stages of planning and designing a juvenile victim-offender mediation program,¹⁷⁸ the court has implemented a victim-offender mediation project in the county's juvenile offender resident facility. The project was created in order to promote reconciliation between victims and their juvenile offenders.¹⁷⁹ Additionally, the judge presently refers some cases to Main Street Mediation,¹⁸⁰ either before adjudication or as a part of probation, in order to resolve the "family issues" caused by the juvenile's behavior. These referrals typically involve unruly children, truancy charges or other circumstances indicating a lack of "harmony in the home."¹⁸¹

¹⁷⁵ Perry County, which is located in the central part of the state, has a population of approximately 31,557. The Juvenile Division of the Court of Common Pleas, which is paired with the Probate Division, is composed of one judge, and the 1996 docket included approximately 274 delinquency cases. *See* OHIO COURTS SUMMARY 1996, *supra* note 5, at 3H, 5H.

¹⁷⁶ *See* Telephone Interview with Judge Luann Cooperrider, Perry County Court of Common Pleas, Probate/Juvenile Division (Feb. 1997–Apr. 1998).

¹⁷⁷ *See id.*

¹⁷⁸ *See id.* The court has not decided whether the program will be within the court or through the use of an outside agency.

¹⁷⁹ *See id.* The project also includes role playing with the juvenile offenders for the purpose of teaching them positive communication and negotiation skills.

¹⁸⁰ *See* Telephone Interview with Patti J. Smith, Program Coordinator for Main Street Mediation, Inc. (Feb. 1997–Apr. 1998). Main Street Mediation is a nonprofit community-based mediation group that was developed in 1990 pursuant to an OCJS grant. In addition to the services provided to the court, Main Street Mediation also provides mediation services to public schools in order to reduce the number of suspensions and expulsions among students.

¹⁸¹ *See id.*

VI. CONCLUSION

Several observations may be made regarding the development of juvenile victim-offender mediation programs in Ohio. The programs serve a variety of purposes—restoring the victim, reconciling the parties, improving the quality of justice, reducing the courts' caseloads, promoting community involvement in judicial processes and reducing the rate of recidivism among juvenile offenders. The programs receive personnel and fiscal support from a variety of sources—churches, the local community, the State of Ohio, the federal government and entities in other states. The programs' potential areas of improvement range from initiating greater contact with the parties prior to the mediation to developing cost-effective methods of monitoring and evaluation. Despite these differences, each program appears to have one element in common: the belief that juvenile victim-offender mediation may be effective in counteracting juvenile delinquency.

While one may be naive in thinking that a time-limited intervention such as mediation will have a dramatic effect on altering delinquent behavior,¹⁸² the optimism surrounding the process is supported not only by the few studies that have been conducted,¹⁸³ but also by the preliminary findings of several programs in Ohio. A sense of urgency is in our midst, and the need for definitive answers increases with each juvenile offender who enters the justice system. While "we are challenged as never before,"¹⁸⁴ juvenile victim-offender mediation may bring us one step closer to the ultimate solution.

¹⁸² See Umbreit & Coates, *supra* note 50, at 579 (noting that juvenile delinquency is influenced by many other factors, including family life, education, chemical abuse and available opportunities for treatment and growth).

¹⁸³ See *supra* Part IV.E (discussing the effectiveness of juvenile victim-offender mediation).

¹⁸⁴ CHIEF JUSTICE THOMAS J. MOYER, THE STATE OF THE JUDICIARY ADDRESS BEFORE THE 122ND GENERAL ASSEMBLY 1997 (commenting on both the increase in juvenile crime over the past decade and the need for the state to explore new strategies for assisting the families that come before the courts).